

CARL J. KUNASEK  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
WILLIAM A. MUNDELL  
COMMISSIONER



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BRIAN C. McNEIL  
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: JUNE 12, 2000

DOCKET NO: RR-02635B-00-0288

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Marc Stern. The recommendation has been filed in the form of an Opinion and Order on:

BURLINGTON NORTHERN & SANTA FE RAILWAY CO.  
(AT-GRADE)

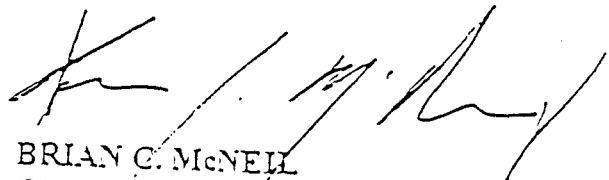
Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JUNE 21, 2000

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

JUNE 27, 2000 and JUNE 28, 2000

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250.

  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK  
CHAIRMAN

3 JIM IRVIN  
COMMISSIONER

4 WILLIAM A. MUNDELL  
COMMISSIONER

5  
6 IN THE MATTER OF THE APPLICATION OF  
7 THE MARICOPA COUNTY DEPARTMENT OF  
8 TRANSPORTATION TO CONSTRUCT A  
9 GRADE-SEPARATED CROSSING AT THE  
TRACK OF THE BURLINGTON NORTHERN  
AND SANTA FE RAILWAY COMPANY, AT THE  
INTERSECTION OF LOOP 303 AND US 60,  
MARICOPA COUNTY, ARIZONA, M.P. 167.74.

DOCKET NO. RR-02635B-00-0288

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

10 DATE OF HEARING: June 1, 2000

11 PLACE OF HEARING: Phoenix, Arizona

12 PRESIDING OFFICER: Marc E. Stern

13 APPEARANCES: Mr. Robert Metli, Staff Attorney, Legal Division, on  
14 behalf of the Utilities Division of the Arizona  
Corporation Commission.

15 **BY THE COMMISSION:**

16 On May 1, 2000, the Maricopa County Department of Transportation ("MCDOT") filed with  
17 the Arizona Corporation Commission ("Commission") a request for approval to construct a grade-  
18 separated crossing over the Burlington Northern and Santa Fe Railway Company ("Railroad") track  
19 at the intersection of Loop 303 and US 60, Maricopa County, Arizona, at milepost 167.74  
20 ("Application").

21 On May 15, 2000, by Procedural Order, the Application was set for a hearing and MCDOT  
22 was ordered to notify any interested party of the Application and the hearing.

23 On June 1, 2000, MCDOT filed certification that notice had been provided pursuant to the  
24 terms of the Procedural Order on May 18, 2000.

25 On June 1, 2000, a full public hearing was held before a duly authorized Hearing Officer of  
26 the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the matter was  
27 taken under advisement pending submission of a recommended Opinion and Order to the  
28 Commission.

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

#### FINDINGS OF FACT

1. On May 1, 2000, MCDOT filed an Application in which it requested an Opinion and Order from the Commission to approve an agreement between MCDOT and the Railroad for the construction of a grade-separated crossing over the track of the Railroad at the intersection of Loop 303 and US 60 (Grand Avenue), Maricopa County, Arizona, at milepost 167.74.

2. On May 18, 2000, MCDOT provided notice by registered U.S. mail of the Application and hearing thereon.

3. A hearing was held as scheduled on June 1, 2000.

4. The Application provides for the Loop 303 roadway to extend above and over both the track of the Railroad and US 60.

5. Staff testified that the apportionment for the cost of the overpass as provided in the Application will be funded by MCDOT and the Arizona Department of Transportation ("ADOT")

6. After construction of the grade-separated crossing, the Railroad will not be responsible to maintain the crossing in accordance with A.A.C. R14-5-104 because the Loop 303 roadway will be maintained by ADOT and/or MCDOT.

7. Staff has recommended that the Application be approved.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties and over the subject matter of the Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337, and 40-337.01.

2. Notice of the Application was provided in accordance with the law.

3. The construction of the grade-separated crossing at Loop 303 and US 60 is necessary for the public's convenience and safety.

4. The Application should be approved as recommended by Staff.

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ORDER

IT IS THEREFORE ORDERED that the Maricopa County Department of Transportation's Application is hereby granted.

IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company shall notify the Commission, in writing, within ten days of both the commencement and the completion of the grade-separated crossing, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN	COMMISSIONER	COMMISSIONER
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IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
BRIAN C. McNEIL  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
MES:bbs

1 SERVICE LIST FOR: BURLINGTON NORTHERN AND SANTA FE  
2 RAILWAY COMPANY

3 DOCKET NO. RR-02635B-00-0288

4 Ray Smith, P.E Project Manager  
5 Maricopa County Department of Transportation  
6 2901 West Durango Street  
7 Phoenix, Arizona 85009

8 John Syers  
9 ADOT-Utility & Railroad  
10 205 S. 17<sup>th</sup> Avenue  
11 Phoenix, Arizona 85007-3213

12 Larry J. Delaney  
13 Project Engineer  
14 BNSF Railway Company  
15 1624 First Street NW  
16 Albuquerque, NM 87102-1538

17 Lyn Farmer, Chief Counsel  
18 Legal Division  
19 ARIZONA CORPORATION COMMISSION  
20 1200 West Washington Street  
21 Phoenix, Arizona 85007

22 Deborah Scott, Director  
23 Utilities Division  
24 ARIZONA CORPORATION COMMISSION  
25 1200 West Washington Street  
26 Phoenix, Arizona 85007

27 Don Thompson, Railroad Safety Supervisor  
28 Office of Railroad Safety  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007